

**DURHAM, NORTH CAROLINA  
MONDAY, JUNE 21, 2010  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell read a proclamation declaring June 27, 2010 as National HIV Testing Day presented to Trish Bartlett, Chair of HIV/STD Committee of the Partnership for a Healthy Durham, Sharon Elliott-Bynum of CAARE and Kate McQueen.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield requested that Agenda Items 37 [Plan Amendment – Jubilee Christian Church] and 38 [Zoning Map Change – Jubilee Christian Church] be referred back to the administration -- Planning Department and informed Council that Agenda Item 43 [2010 General Obligation Bond Referendum] has been added as a supplemental item.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve the City Manager's priority items was approved at 7:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Regarding Consent Agenda Item 40 [Contract with the Triangle Authority for Operation of the Durham Transit Services], City Attorney Baker reported minor changes have been made to the contract and provided Council with three resolutions pertaining to General Business Agenda Item 41 [Human Relations Commission].

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept the City Attorney's priority items was approved at 7:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Clerk.

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Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 27, 28 and 40 were pulled.

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda as amended was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve City Council minutes for the April 29, 2010 Special City Council Meeting; May 3, 2010 and May 17, 2010 City Council Meetings; and

To approve City Council action taken at the April 22, 2010 and May 6, 2010 City Council Work Sessions was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM CULTURAL ADVISORY BOARD - APPOINTMENTS**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to reappoint Sherry Devries, Beverly Meek, Joshua M. Parker and Michael Schoenfeld and to appoint Pamela M. Green and Ashley Matteis to the Durham Cultural Advisory Board with the terms to expire on June 30, 2012 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: WORKFORCE DEVELOPMENT BOARD - APPOINTMENTS**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to appoint Del Mattioli, William Brian, Jr., and Shishir Shonek to the Workforce Development Board to represent Private Sector as recommended by the Durham Chamber of Commerce with the terms to expire on June 30, 2012 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BIDS – TERM CONTRACT FOR SODIUM HYDROXIDE (1,000 TONS) - BRENNTAG SOUTHEAST**

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**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a contract with Brenntag Southeast in the estimated amount of \$422,125.00 for providing the City with Sodium Hydroxide was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BIDS – TERM CONTRACT FOR FERRIC SULFATE SOLUTION (3,600 TONS) - KEMIRA WATER SOLUTIONS, INC.**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a contract with Kemira Water Solutions, Inc. in the estimated amount of \$413,388.00 for providing the City with Ferric Sulfate Solution was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BIDS – TERM CONTRACT FOR LIQUID ALUMINUM SULFATE (2,280 TONS) - GENERAL CHEMICAL PERFORMANCE PRODUCTS LLC**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a contract with General Chemical Performance Products LLC in the estimated amount of \$633,840.00 for providing the city with Liquid Aluminum Sulfate was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET ACCEPTANCE – PRATT STREET**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to accept the street on the list for maintenance by the City of Durham was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Pratt Street

- 1) Pratt Street - from the east property line of PIN 0812-19-72-2453 east thru the cul-de-sac (345').

**SUBJECT: AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) PERFORMANCE AUDIT (MAY 2010)**

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**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive and accept the American Recovery and Reinvestment Act Performance Audit dated May 2010, as presented and approved at the May 24, 2010 meeting of the Audit Services Oversight Committee was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT WITH THE DURHAM CHAMBER OF COMMERCE FOR THE FY 2011 MAKE IT DURHAM CAMPAIGN**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with the Greater Durham Chamber of Commerce not to exceed \$22,500.00 related to the Make IT Durham Campaign was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: FY 2010-2011 CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES WITHIN THE DOWNTOWN DURHAM DISTRICT BETWEEN THE CITY OF DURHAM AND DOWNTOWN DURHAM, INC.**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with Downtown Durham, Inc. in an amount not to exceed \$189,298.00 for economic development services was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: SUPPLEMENTAL AGREEMENT BETWEEN THE CITY OF DURHAM AND E.G. & G., INC. FOR STREETSCAPE CONSTRUCTION AND DESIGN SERVICES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to transfer \$1,000,000.00 from the Liggett Street Streetscape Fund in the Capital Improvement Plan budget to the 2008 Capital Improvement Plan line item for a neighborhood streetscape project; and \$571,094.00 from the Neighborhood Revitalization Fund that would be incorporated into an FY10 carryover request;

To adopt a Resolution, Pursuant to N.C.G.S. 143-64.32, Exempting the Angier /Driver Commercial Corridor Project from N.C.G.S. 143-64.31;

To authorize the City Manager to execute a second amendment to the design contract with E.G.&G., Inc. to perform construction design services for an amount not to exceed \$425,000.00, which would increase the value of the existing contract between the City of Durham and E.G. &

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G., Inc. from \$299,945.00 to \$724,945.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9726**

**SUBJECT: CONTRACT WITH THE ACHIEVEMENT ACADEMY OF DURHAM, INC. FOR WORKFORCE INVESTMENT ACT FUNDED YOUTH SERVICES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with Achievement Academy of Durham, Inc. in an amount not to exceed \$69,044.52 for youth to receive additional program services as part of the WIA Youth Employed and Succeeding program was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT EXTENSION WITH COMMUNITY PARTNERSHIPS, INC. TO PROVIDE YOUTH FRAMEWORK SERVICES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract amendment with Community Partnerships, Inc. extending its youth framework services from July 1, 2010 through September 30, 2010 increasing the original contract amount by \$75,000.00 for a total contract amount not to exceed \$425,000.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CITY-COUNTY RADIO SYSTEM SERVICE AGREEMENT RENEWAL WITH MOTOROLA, INC.**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the Radio System Service Agreement with Motorola, Inc. in the amount of \$269,189.84 for FY2011; and

To authorize the renewal of the agreement for FY 2012 and FY 2013, subject to annual appropriations was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: TOWER LICENSE AGREEMENT WITH T-MOBILE SOUTH LLC, INC.  
1318 E. PETTIGREW STREET PARCEL ID # 119085 – EAST  
PETTIGREW STREET WATER TANK**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the Tower License Agreement with T-Mobile South, LLC to attach antennas to the water tank and make related improvements at 1318 E. Pettigrew St., Parcel ID # 119085 under the authority of Section 86 of the City Charter was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO CIVIC CENTER MANAGEMENT AGREEMENT  
WITH SHANER HOTEL GROUP PROPERTIES TWO LIMITED  
PARTNERSHIP**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract amendment, in conjunction with Durham County, to the Civic Center Management Agreement with Shaner Hotel Group Properties Two Limited Partnership Shaner to extend the Management agreement term to and include December 31, 2010; and

To pay the Management Company a flat fee in an amount of \$102,700.00 per month for the extended six month term was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONVENTION CENTER PHASE II PROJECT - AMENDMENT #1C TO  
THE SKANSKA USA BUILDING (CMAR) PRECONSTRUCTION  
SERVICES CONTRACT**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute Amendment 1C to the CMAR Preconstruction Services contract with Skanska USA Building, in an amount not to exceed \$52,000.00.

To establish a project contingency in the amount of \$7,800.00; and

To authorize the City Manager to negotiate and execute change orders on the Amendment 1C to the CMAR Preconstruction Services contract with Skanska USA Building, provided the total project cost does not exceed the amount budgeted for preconstruction phase services plus the project contingency was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: 2010-12 TEMPORARY STAFFING SERVICES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve the Temporary Staffing Services List for the fiscal years 2010-2012; and

To authorize the City Manager to execute master agreements with the recommended firms was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: 2010-12 ON-CALL PROFESSIONAL CONSULTANT SERVICES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to approve the On-Call Professional Consultant Services List for the fiscal years 2010-2012; and

To authorize the City Manager to execute master agreements with the recommended firms was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DONATION OF SURPLUS EQUIPMENT TO DURHAM COUNTY, NORTH CAROLINA**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to donate a surplus City Vehicle #10200, 1994 Chevrolet Astro Van to Durham County without consideration was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: EXEMPTION TO DURHAM CITY CODE SECTION 66-109 TO ALLOW LAW ENFORCEMENT OFFICERS TO OPERATE BICYCLES ON CITY SIDEWALKS WHILE IN THE PERFORMANCE OF OFFICIAL DUTIES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt an Ordinance Amending Section 66-109 of the Durham City Code to Allow Law Enforcement Officers, Security Guards and Emergency Medical Technicians to Ride Bicycles Upon City Sidewalks in the Performance of Their Official Duties, and to Remove the Exception for Motorized Wheelchairs Since Devices for Mobility Impairment are not Vehicles within the Meaning of the Ordinance was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14012**

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**SUBJECT: USE OF FEDERAL ASSET FORFEITURE FUNDS**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the Use of Asset Forfeiture Funds in an amount not to exceed \$25,200.00 to fund the Durham CrimeStoppers Program was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM ATMOSPHERIC DEPOSITION MONITORING CONTRACT WITH MACTEC ENGINEERING AND CONSULTING**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with MACTEC Engineering and Consulting Incorporated for an amount not to exceed \$181,000.00 for the purchase, installation, and 12-month operation of equipment to determine nitrogen and phosphorus deposition was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT # 1 OTTO CONTAINER MANAGEMENT FOR CART RENTAL, DELIVERY, REPAIR AND MAINTENANCE SERVICES**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to amend the existing contract between the City of Durham and Otto Container Management, LLC to increase the number of carts served under the contract in order to provide cart rental, delivery, maintenance, and repair services for the expanded curbside recycling program; and

To increase the dollar amount appropriated by \$522,000.00 per year was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) SUPPLEMENTAL MUNICIPAL AGREEMENT FOR THE RIDDLE ROAD REALIGNMENT AT FAYETTEVILLE ROAD PROJECT (WBS ELEMENT 30640)**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a Supplemental Agreement to the Municipal Agreement for the Realignment of Riddle Road at the Intersection of Fayetteville Road (NCDOT Project



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WBS Element 30640), dated October 17, 2006, for the purposes of modifying eligible reimbursement expenses incurred by the City and revising the project schedule was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: BULL CITY CONNECTOR**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to accept the FY 2009-10 Section 5309 Bus Grant by executing the grant documents;

To adopt the FY 2009-10 Section 5309 Bus Grant Project Ordinance;

To authorize the City Manager to accept the FY 2009-10 City of Durham and Federal Transit Administration Section 5307 CMAQ Grant by executing the grant documents;

To adopt the FY 2009-10 City of Durham and Federal Transit Administration Section 5307 CMAQ Grant Project Ordinance; and

To authorize the City Manager to execute the agreement between the City of Durham and Duke University for public transit service was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14013 and 14014**

**SUBJECT: ELEVATED WATER STORAGE TANK MAINTENANCE CONTRACT AMENDMENT WITH UTILITY SERVICES, INC.**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract amendment with Utility Services, Inc. for water tank maintenance services at an annual cost of \$202,144.00 for five years totaling \$1,010,720.00 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DOWNTOWN DURHAM, INC. BOARD OF DIRECTORS – REAPPOINTMENT**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to reappoint Council Member Mike Woodard to the Downtown Durham, Inc. Board of Directors to serve as an ex-officio member with the term to begin on July 1, 2010 through June 30, 2011 was approved at 7:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-

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McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None.  
Absent: None.

**The City Council disposed of the following agenda items at the June 10, 2010 Work Session:**

**15. Provision of Information Regarding H.R. 4213 (American Jobs and Closing Tax Loopholes Act)**

To accept the staff report; and

To support passage of the American Jobs and Closing Tax Loopholes Act.

(This item was approved at the 06-10-10 Work Session with a vote of 6/0)

**24. Raleigh-Durham International Airport - Federal Aviation Administration (FAA) Grant Offer for Rehabilitate Runway 5R-23L Pavement**

To accept the Federal Aviation Administration Grant Offer in an amount of \$1,206,483.00 for Rehabilitate Runway 5R-23L Pavement (Phase V, Payment 5) Project No.3-37-0056-40-2010;

To authorize the City Manager to execute the Grant Agreement; and

To authorize the City Attorney to give assurances with respect thereto.

(This item was approved at the 06-10-10 Work Session with a vote of 6/0)

**30. Revisions to City Code Regarding Extension Agreements**

To adopt an Ordinance clarifying the process for modifying the Urban Growth Area UGA Boundary; and

To adopt an Ordinance clarifying the conditions associated with a utility extension agreement.

(This item was referred back to the Administration – Public Works Dept.)

**35. Durham Performing Arts Center (DPAC) Oversight Committee Annual Report**

To receive the Durham Performing Arts Center (DPAC) Oversight Committee's Annual Report.

(A presentation was received at the 06-10-10 Work Session)

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#### **42. Support for N.C. Mobility Fund**

To adopt a Resolution for the creation of the N.C. Mobility Fund.

(This item was approved at the 6-10-10 Work Session with a vote of 6/0)

#### **[GENERAL BUSINESS AGENDA]**

#### **SUBJECT: FISCAL YEAR 2009-2010 OPERATING BUDGET AND CAPITAL IMPROVEMENT PROJECT BUDGET AMENDMENTS**

Assistant Budget Director John Allore made comments on this item.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt an Ordinance Amending the FY2009-10 City of Durham Budget Ordinance, the same being Ordinance #13861; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinances, Fiscal Year 2009-10, as amended, the same being Ordinance #13841 and #13842 was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

#### **Ordinance #14015, 14016 and 14017**

#### **SUBJECT: FISCAL YEAR 2010-2011 BUDGET AND 2011-2016 CAPITAL IMPROVEMENT PLAN (CIP)**

Budget Director Bertha Johnson made comments on this item.

City Manager Bonfield provided Council with a summary covering the final changes that have been included in the budget.

Bertha Johnson reported \$6,000 was added to the Crest Street budget to cover the end of the mowing season.

To adopt the FY2010-11 City of Durham Budget Ordinance, 2011-2016 Capital Improvement Plan Ordinance and Other Related Ordinances:

##### **a) Fees**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Revising the Parks and Recreation Fees and Charges Schedule, Replacing all of Section 1, Part 11-102 of the City of Durham Fee Booklet was approved at 7:19 p.m. by the

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following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14018**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Establishing a Public Works Department Stormwater Linear Foot Pipe and Open Channel Conveyance Inspection Fee was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14019**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Establishing a Public Works Department Re-inspection Fee for Stormwater Lines was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14020**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Revising Fees for Single Inspections by the Public Works Department was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14021**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Establishing a Department of Water Management Backflow Preventer Permit Fee was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14022**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Revising Septage Fees was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14023**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Revising Capital Facilities Fees For Water and Sewer was approved at 7:19

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p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14024**

**b) Non-City Agency Contracts**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute Non-City Agency contracts as recommended; and

To authorize the City Manager to make amendments to the Non-City Agency contracts that does not increase the contract sum was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

<b>FY11 Non-City Agency Funding</b>	
<b>9 Agencies</b>	<b>Proposed Funding</b>
Clean Energy Durham	\$ 4,010
Coordinating Council for Senior Citizens	4,678
Durham Companions, Inc.	706
Durham Congregations in Action	6,014
Ligo Dojo of Budo Karate	6,014
North Carolinians Against Gun Violence	4,277
The Peoples Channel/Durham Community Media	20,000
Project Graduation of Durham, Inc.	1,337
The Center for Documentary Studies	1,203
<b>Total NCA Funding in FY 10-11</b>	<b>\$48,239</b>

**c) Capital Project Ordinances**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham General Capital Improvements Projects Ordinance Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14025**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham Water and Wastewater Capital Improvements Project Ordinance Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14026**

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham Stormwater Capital Improvements Project Ordinance Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14027**

**d) Grant Project Ordinances**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham Employment and Training Grant Project Ordinance July 1, 2010 – June 30, 2012 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14028**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City Of Durham Employment and Training 2010-2012 Grant Project Ordinance for U.S. Environmental Protection Agency Brownfields Job Training Grant July 1, 2010– July 31, 2012 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham Grant Project Ordinance Fiscal Year 2010-11 Transportation Planning Grant Project was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14029**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham FY 2010-2011 (FY 2011) 5303 Metropolitan Transit Planning Grant Project Ordinance was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14030**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham Grant Project Ordinance Fiscal Year 2010-11 Transit Planning and Capital Grant was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard.  
Noes: None. Absent: None.

**Ordinance #14031**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham Grant Project Ordinance Fiscal Year 2009-10 Transit Planning and Capital Grant Superseding Ordinance #13847 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14032**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham and U.S. Department of Justice Federal Asset Forfeiture Funds Grant Project Ordinance Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14033**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham and State of North Carolina Controlled Substance Abuse Funds Grant Project Ordinance Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14034**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham and Federal Task Team Initiatives Fiscal Year 2010 Grant Project Ordinance Fiscal was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14035**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham and U.S. Department of Justice Fiscal Year 2010 Bulletproof Vest Partnership Grant Project Ordinance was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14036**

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to the City of Durham and U.S. Department of Justice Office of Justice Programs, Bureau of Justice Assistance Fiscal Year 2010 Justice Assistance Grant (JAG) Project Ordinance was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14037**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham and Office of Organized Crime Drug Enforcement Task Force (OCDETF) Programs, Fiscal Year 2010 Strike Force/Strategic Initiative Grant Project Ordinance was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14038**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a revision of grant project ordinance #13853 the City of Durham and State of North Carolina Controlled Substance Abuse Funds Grant Project Ordinance Fiscal Year 2009-10 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14039**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a Resolution Establishing Financial Plans for Internal Service Funds for Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9728**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the Resolution Establishing Financial Plan for the Durham Performing Arts Center Capital Reserve Fund for Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9729**



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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt the City of Durham Budget Ordinance for Fiscal Year 2010-11 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14040**

**SUBJECT: HUMAN RELATIONS COMMISSION – RESOLUTION TO SUSPEND ALL CITY TRAVEL RELATED EXPENDITURES WITH STATE OF ARIZONA**

To adopt a Resolution to Suspend All City Travel and Related Expenditures with the State of Arizona Should Arizona Senate Bill 1070 Go Into Effect.

Mayor Bell read the following statement for the record:

As you know, I was not present at the City Council Work Session on June 10, 2010 when this item was discussed. I understand that it was placed on the GBA agenda. I do not intent to have any public discussion on the subject.

Having said that, I have now had an opportunity to review both resolutions as sent by the City Attorney.

I think there is some merit in both resolutions. However, I also am of the opinion that suspending travel to Arizona is probably going to have very little, if any, impact both to Arizona and Durham City's conduct of business.

I do think that the issue of immigration law is of such growing national concern that it should require the attention of our Federally Elected Officials. We, in Durham, pride ourselves on our diversity. Our Draft 2010 – 2015 Plan overwhelmingly shows that Hispanics are the fastest growing racial demographic in our community. As a percentage of the total area population, the Hispanic population has grown from just over 1% in 1990 to 12.4% in 2009. Furthermore, the Hispanic population is projected to reach 15% of the total area population in 2014. We should not be creating an environment in this country whether it is in Arizona or North Carolina that immigrants are a threat to our country. It is for that reason alone that I think the issue has to be addressed at the Federal level while also alerting our local delegation as to our opinion on its importance as a Federal responsibility not state.

As I understand what is being proposed by Arizona, the statute in effect would require immigrants to carry documents at all times verifying their immigration status, just to be sure in case they were stopped. If this is true then we as a nation have really taken a step back into the past of segregation. In this country people of various races come in all colors and hue. As an African American, I take great offense that any government would allow

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persons to be questioned by their police department about their immigration status, simply because that person may be suspected of being in the country illegally.

I also am of the opinion that the persons we hire to run the day-to-day business of the city should make the appropriate decisions concerning city business travel. It is for that reason that I am recommending the Human Relations resolution be changed to reflect leaving that responsibility to the three (3) City administrators that we hire. If there are exceptions then they should bring it to the City Council's attention for resolution. That has been incorporated into Councilman Brown's Resolution that I have attached for consideration by the Council as an alternative resolution on the subject.

Mayor Bell introduced the following alternate Resolution:

**RESOLUTION URGING SWIFT FEDERAL ACTION ON  
COMPREHENSIVE NATIONAL IMMIGRATION REFORM  
Introduced by Mayor William V. "Bill" Bell**

WHEREAS, recent legislative action in the state of Arizona has cast light on our broken immigration system; and

WHEREAS, until our broken national immigration system is fixed, employers who pay fair wages, offer good benefits, and play by the rules will continue to be undercut by employers who gain unfair market advantage by exploiting immigration status to pay lower wages, avoid taxes, and violate labor laws; and

WHEREAS, local law enforcement will continue to be pressured to bear unfair burdens of what is legally a Federally responsibility at the same time while possibly taking away from the good community efforts of countless police departments; and

WHEREAS, until our broken national immigration system is fixed, and local communities will continue to feel the corrosive tensions of immigration uncertainly that pit worker against worker and neighbor against neighbor; and

WHEREAS, until our broken national immigration system is fixed, we will continue to be challenged by unlawful entry into the United States and the circumvention of our nation's immigration laws; and we believe that fair, effective and reliable border security must be a central feature of any comprehensive national immigration reform package; and

WHEREAS, our broken national immigration system fails even the most basic tests of economy or humanity, by ignoring the economic realities that propel workers to the United States and the roles they fill in the American economy, and by ignoring the bonds of family that pull immigrant workers together and, too, often, tumultuously apart; and

WHEREAS, comprehensive national immigration reform will serve to boost wages for both native-born and immigrant workers, increase annual tax revenue for all levels of government, and provide a needed boost to private sector economic activity; and

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WHEREAS, immigrants, through hard work and pursuit of better lives for themselves, their families, and their communities, have been integral to the development of Durham, North Carolina, and of the United States, and continue to make valuable contributions to our city, state, and nation in every area of endeavor and sector of the economy; and

WHEREAS, this nation was founded on legal and ethical principles that demand dignity, respect, and equality of treatment for all people, regardless of country of origin; and

WHEREAS, the culture of these United States, after over two-and-a-quarter centuries, now presents a vast diversity of cultures that were each transported to our country at different times and for different reasons but that have each added their own unique color and quality to the tapestry of American life.

NOW THEREFORE, BE IT PROCLAIMED BY THE COUNCIL OF THE CITY OF DURHAM:

Section 1. That the Council of the City calls upon President Barack Obama, the United States Congress, and our North Carolina congressional delegation, to take swift and responsible legislative action to produce fair, humane, effective, and comprehensive federal immigration reform – reform that enhances American stability, security, and prosperity by: providing a path to earned legalization, citizenship, and social integration for our existing immigrant workforce and their families; equitable access to higher education for immigrant students already being educated in American public schools; enhanced enforcement of labor laws; effective and fully funded border control; fair and enforceable immigration laws; family unification; a rate and system of controlled immigration that matches the needs of our economy; and bilateral partnerships with other countries to promote economic development that will reduce the flow of immigrants in the first place.

Section 2. The City Council of the City of Durham directs the City Manager, City Attorney and City Clerk, unless approved by the City Council, to suspend all City related business travel expenses paid for or reimbursed by City funds, for events and conferences of any kind held within the State of Arizona if Arizona Senate Bill 1070, otherwise known as the Support our Law Enforcement and Safe Neighborhoods Action, becomes law.

Section 3. Should Arizona Senate Bill 1070 go into law, this suspension shall continue until this law is effectively repealed.

Section 4. That the Clerk of the City of Durham is hereby directed to deliver a certified copy of this Resolution to the Congressional offices of United States Senator Richard Burr, United States Senator Kay Hagan and United States Congressman David Price, along with our local delegation to the General Assembly.

Section 5. That this Resolution shall be effective on and after its passage.

For clarification, Mayor Bell noted the two resolutions in effect were blended into one resolution except for one change--it would be left up to the City Manager, City Attorney and City Clerk to

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determine if there would be any travel to Arizona.

Council Member Brown stated he does not believe that SB1070 would give local authorities, i. e., police and sheriff the right to ask for proof of immigration status and highlighted changes that were made in May to SB 1070 and the language inserted which was in four steps to avoid this from happening. Also, he noted he does not support SB 1070 since immigration statutes and laws are the responsibility of the Federal government.

Mayor Bell expressed concerns regarding step 2 of SB 1070 that states law enforcement official *has developed a reasonable suspicion* that the individual is not in this country legally along with all legal citizens being asked of their immigration status.

City Attorney Baker stated the language of this statute does refer to federal immigration laws.

Council Member Brown stated the resolution he presented came from the City of Denver and they were careful not to use the word Arizona in their proclamation. He stated he believes that the focus has to be with the federal government and the reform that is necessary.

Mayor Bell stated he added sections 2 and 3 to the resolution that was drafted by Council Member Brown.

Council Member Brown spoke against the resolution presented by the Mayor since Council is being asked to respond to a law that has not been read by his colleagues. He stated this is a national and federal issue and what is done by this Council will have little effect upon this issue. Also, he explained why he added the word Arizona at the beginning of the resolution.

Council Member Clement spoke in support of the resolution presented by Mayor Bell.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a Resolution Urging Swift Federal Action on Comprehensive National Immigration Reform--Introduced by Mayor William V. "Bill" Bell was approved at 8:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Catotti, Clement and Woodard. Noes: Council Member Brown. Absent: None.

## **Resolution #9724**

### **[PUBLIC HEARINGS]**

#### **SUBJECT: LIMITED OBLIGATION BONDS FINANCING SERIES 2010 - PUBLIC HEARING – NEW DURHAM CORPORATION**

Finance Director David Boyd made comments on this item. He stated the purpose of this item is hold a public hearing for a Resolution Authorizing the Issuance of Limited Obligation Bonds that would be used to refinance a portion of the City's outstanding debt to a lower interest cost and to provide funds for previously approved projects that were intended to be financed with debt. He

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reported that a notice of public hearing, related to financing of projects pursuant to an amendment to an installment financing contract, in a principal amount not to exceed \$80,000,000 and the giving, in connection with the contract, as grantor, of lien on certain real property through a Notice of Extension to a deed of trust and security agreement on which a portion of this project will be located, was published on June 9, 2010 stating that the City Council would hold a public hearing tonight.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

Mayor Bell read a resolution entitled “Resolution of the City Council of the City of Durham, North Carolina, Approving an amendment to the Installment Purchase Contract with New Durham Corporation and Related Matters” which is before the City Council for consideration authorizing staff to move forward, as City representatives, with the proposed finance for the projects just discussed and authorizing the execution and delivery of certain documents in connection with this financing.

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to conduct a public hearing to receive public comments concerning the contract, deed of trust and other related documents;

To adopt a resolution approving an amendment to the installment purchase contract with New Durham Corporation and related matters;

To authorize the City Manager or his designee to execute other associated legal documents as necessary to complete this transaction; and

To authorize the City Manager to make changes to any of the legal documents prior to execution, so long as the changes are consistent with the intent of the agenda item memo and the existing versions of the documents was approved at 8:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9725**

**SUBJECT: PLAN AMENDMENT – JUBILEE CHRISTIAN CHURCH (A1000002)**

To conduct a public hearing and receive public comments on the Jubilee Christian Church (A1000002) Plan Amendment; and

To adopt a Resolution to Change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Industrial to Office.

Staff Recommendation: Approval, based on the justification and meeting the four criteria for plan amendments.

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Planning Commission Recommendation: Approval, April 13, 2010, 12-0, based on the information provided in the staff report, the justification and meeting the four criteria for plan amendments

Mayor Bell noted this item was referred back to the administration--City/County Planning Department--at the request of the City Manager earlier in the meeting.

**SUBJECT: ZONING MAP CHANGE – JUBILEE CHRISTIAN CHURCH (Z10-02)**

To conduct a public hearing and receive public comments on the zoning map change for Jubilee Christian Church (Z1000002);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1000002 out of Industrial Light (IL) and placing same in and establishing same as Office Institutional (OI); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, should the plan amendment be approved, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 12 – 0 on April 13, 2010. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the plan amendment be approved, the request would be consistent with the Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report.

[The site is located at 4809 Prospectus Drive, generally south of East NC 54 Highway and north of Sedwick Road. PIN: 0738-03-21-2427]

Mayor Bell noted this item was referred back to the administration--City/County Planning Department--at the request of the City Manager earlier in the meeting.

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**[SUPPLEMENTAL ITEM]**

**SUBJECT: 2010 GENERAL OBLIGATION BOND REFERENDUM**

Finance Director David Boyd made comments on this item. He stated this item includes three resolutions which are the first steps required to move forward for placing a \$20,000,000 General Obligation Bond Referendum for Street Resurfacing on the November ballot. He noted the resolutions would 1) direct the publications of the notice of intention to apply to the Local Government Commission for Approval of Bonds, 2) authorize the Finance Director to make such application to the Local Government Commission and 3) make certain statements of fact concerning the proposed bond issue. He reported the City Council would need to hold a public hearing on July 8, 2010 at which time the bond order would be introduced as well as set the public hearing on the bond order for July 22nd. He stated these dates are necessary to meet the deadlines required by the Durham County Board of Elections and all these actions must be completed prior to July 23 in order to make the November ballot.

Mayor Bell read a resolution entitled “Resolution Directing the Publication of Notice of Intention to Apply to the Local Government Commission for Approval of Bonds” which is before the City Council for consideration authorizing staff to publish a required notice of intention to apply to the North Carolina Local Government Commission for approval to issue general obligation bonds for streets.

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt a Resolution of the City Council of the City of Durham, North Carolina Directing the Publication of Notice of Intentions to Apply to the Local Government Commission for Approval of Bonds was approved at 8:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9730**

Mayor Bell read a resolution entitled “Resolution of the City Council of the City of Durham, North Carolina Authorizing the Finance Director to Apply to the Local Government Commission for Approval of the City’s Proposed General Obligation Bond Financing and to Submit Such Application to the Local Government Commission” which is before the City Council for consideration authorizing staff to make application to the North Carolina Local Government Commission for approval to issue general obligation bonds for streets.

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt a Resolution of the City Council of the City of Durham, North Carolina Authorizing The Finance Director to Apply to the Local Government Commission for Approval of the City’s Proposed General Obligation Bond Financing and to Submit Such Application to the Local Government Commission was approved at 8:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**Resolution #9731**

Mayor Bell read a resolution entitled “Resolution of the City Council of the City of Durham, North Carolina Making Certain Statement of Facts Concerning Proposed Bond Issue” which is before the City Council for consideration which makes certain findings related to the City’s financial information and planned borrowing, as required by the North Carolina Local Government Commission in order to consider the City’s application to the North Carolina Local Government Commission for approval to issue general obligation bonds for streets.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Ali to adopt a Resolution of the City Council of the City of Durham, North Carolina Making Certain Statement of Facts Concerning Proposed Bond Issue was approved at 8:12 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9732**

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: RESOLUTION FOR LAND EXCHANGE BETWEEN THE CITY OF DURHAM AND HENRY AND KIMBERLEY KAESTNER FOR THE ST. MARKS ROAD SEWER OUTFALL EASEMENT**

John Tarantino requested information regarding the standard length of an easement and if a structure could be built on a city easement near the Eastway Village development.

City Attorney Baker noted to build in a city easement it would be considered trespassing on the property.

John Tarantino noted that he would contact the City Attorney’s Office for additional information regarding easement usage.

**MOTION** by Council member Brown seconded by Council Member Woodard to adopt a Resolution, pursuant to G.S. 160A-271, that allows exchange of property; authorizing the exchange of approximately 0.7 acres of city-owned property identified as (Parcel ID # 139597) for approximately 1.7 acres of land owned by Mr. Henry and Mrs. Kimberley Kaestner (Parcel ID # 139588) subject to the approved negotiated terms was approved at 8:15p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9727**



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**SUBJECT: LICENSE AGREEMENT WITH DUKE UNIVERSITY FOR  
INSTALLATION OF FIBER OPTIC CABLE**

To authorize the City Manager to enter into a License Agreement with Duke University for installation and maintenance of fiber optic cable within the City's Right-of-Way.

Bob Sepe, of Action Audits, asked for an explanation of why this issue is not a right-of-way agreement, why there is no acceptance clause in license agreement and why there is no annual fee with a specific term. He noted the map preamble identified 19 streets; however, the map in the staff report only reflects 10. He asked Council to take a look at the entire network and to find out what is it connecting to.

Ed Venable addressed some of the questions raised by Mr. Sepe. He explained why Council used this type of agreement highlighting the difference between a license and franchise agreement and outlined the purpose of the agreement.

City Manager Bonfield commented on the site visit of these locations by the Technology Solutions Department. He reported this issue would not be in conflict with what the City would be looking at in the future.

Mayor Bell made a suggestion to refer this item for one cycle to allow the administration to respond to questions raised by Mr. Sepe. Mayor Bell asked Mr. Sepe to provide his questions in a written format to the administration.

Victoria Peterson requested that fiber be provided to all buildings in downtown to generate income and that other streets are included in this effort. She also asked who Duke is partnering with to do this work.

**MOTION** by Council Member Woodard to refer this item to the July 22, 2010 City Council Work Session was approved at 8:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Council Member Clement thanked Mrs. Peterson for her efforts in bringing more people into this business.

**SUBJECT: CONTRACT WITH THE TRIANGLE AUTHORITY FOR OPERATION  
OF DURHAM TRANSIT SERVICES**

James Chavis asked questions that were answered by the City Attorney regarding the availability of public records. He expressed a concern that he has not been able to obtain an itemized breakdown of the operation and administrative cost for this agreement with TTA.

Greg Jackson raised a concern with the operation of the DATA system by Triangle Transit

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Authority and provided Council with a handout--*Bus Stop Talk*. He asked Council to remember staff's help is needed when this agreement is executed.

**MOTION** by Council Member Woodard seconded by Council Member Brown to authorize the City Manager to execute a contract with Triangle Transit Authority for operation of Durham Transit Services was approved at 8:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 8:34 p.m.

Linda E. Bratcher, CMC  
Deputy City Clerk

D. Ann Gray, MMC  
City Clerk